

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF DELAWARE

GALDERMA LABORATORIES INC.,	)	
GALDERMA LABORATORIES, L.P. and	)	
SUPERNUS PHARMACEUTICALS, INC.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	C.A. No. 11-1106 (LPS)
	)	
AMNEAL PHARMACEUTICALS, LLC. and	)	
AMNEAL PHARMACEUTICALS CO. (I)	)	
PVT. LTD.,	)	
	)	
Defendants.	)	

**JOINT STIPULATED DISMISSAL WITHOUT PREJUDICE OF  
PLAINTIFFS' CLAIMS AND DEFENDANTS' COUNTERCLAIMS**

Pursuant to Rules 41(a)(1)(A)(ii) and 41(c) of the Federal Rules of Civil Procedure, Plaintiffs Galderma Laboratories Inc.; Galderma Laboratories, L.P.; and Supernus Pharmaceuticals, Inc. (collectively "Plaintiffs") and Defendants Amneal Pharmaceuticals LLC and Amneal Pharmaceuticals Co. (I) Pvt. Ltd. (collectively "Amneal" or "Defendants") hereby stipulate as follows:

1. Amneal filed Abbreviated New Drug Application ("ANDA") No. 203-278, seeking approval from the United States Food & Drug Administration ("FDA") to market a generic version of Oracea<sup>®</sup>. On September 27, 2011, Amneal provided Plaintiffs notice regarding the filing of ANDA No. 203-278 and also provided a certification pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(IV) ("Paragraph IV certification") of invalidity and/or non-infringement concerning, among others, U.S. Patent No. 7,749,532 ("the '532 patent"). On September 14, 2012, Amneal provided a Paragraph IV certification of invalidity and/or non-infringement with respect to U.S. Patent No. 8,206,740 ("the '740 patent").

2. On November 8, 2011, Plaintiffs brought suit against Amneal for infringement of three patents—the '532 patent, U.S. Patent No. 7,232,572 (“the '572 patent”), and U.S. Patent No. 7,211,267 (“the '267 patent”)—based on Amneal’s Paragraph IV certification that it intended to manufacture, sell or offer for sale its generic version of Oracea<sup>®</sup> before the expiration of those patents. (D.I. 1.) On July 24, 2012, Plaintiffs filed a First Supplemental Complaint adding allegations of infringement of the '740 patent. (D.I. 74.) On October 12, 2012, Plaintiffs filed a Second Supplemental Complaint alleging infringement only of the '532 patent and the '740 patent based on Amneal’s filing of ANDA No. 203-278 and the Paragraph IV certifications.<sup>1</sup> (D.I. 128.)

3. On January 30, 2012, Amneal filed its First Answer, Affirmative Defenses, and Counterclaims. (D.I. 12.) On June 13, 2012, Amneal filed its First Amended Answer, Affirmative Defenses, and Counterclaims. (D.I. 57.) On October 2, 2013, Amneal filed an Amended Answer, Affirmative Defenses, and Counterclaims to the Second Supplemental Complaint, (D.I. 192,) alleging defenses that the '532 patent and the '740 patent are invalid and not infringed, and that Plaintiffs’ allegations fail to state a claim upon which relief can be granted. Amneal also alleged counterclaims for a declaration of noninfringement of the '532 and '740 patents; a declaration of invalidity of the '532 and '740 patents; a declaration of unenforceability of the '532 and '740 patents due to inequitable conduct; a declaration that Plaintiffs be barred from asserting the '740 patent against Amneal due to unclean hands; and a declaration of breach of contract.

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<sup>1</sup> On September 7, 2012, the Court entered judgment of non-infringement in favor of Amneal as to the '572 patent and '267 patent. (D.I. 104.)

4. On May 13, 2014, Amneal amended its ANDA to include a certification pursuant to 21 U.S.C. § 355(j)(2)(A)(vii)(III) (“Paragraph III Certification”) such that Amneal no longer seeks approval from FDA to market a product pursuant to ANDA No. 203-278 prior to expiration of the ’532 patent and the ’740 patent.

5. Based on the foregoing amendment to Amneal’s ANDA to include a Paragraph III Certification as to the ’532 patent and the ’740 patent, all of Plaintiffs’ claims of infringement against Amneal in Plaintiffs’ Second Supplemental Complaint (D.I. 128) are dismissed without prejudice.

6. All of Amneal’s counterclaims against Plaintiffs in Amneal’s Amended Counterclaims (D.I. 192) are dismissed without prejudice.

7. Each party to bear its own costs and attorneys’ fees.

MORRIS, NICHOLS, ARSHT & TUNNELL LLP

MORRIS JAMES LLP

*/s/ Jack B. Blumenfeld*

*/s/ Mary B. Matterer*

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May 16, 2014